

FILED

SEP 11 2013

EUGENE R. WEDOFF,
BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

In re:

CANOPY FINANCIAL, INC.

Debtor.

Case No. 09 B 44943

Chapter 7

**FINDINGS OF FACT AND CONCLUSIONS OF LAW IN SUPPORT OF ORDER AWARDING TO
SPERLING & SLATER P.C., ATTORNEYS FOR TRUSTEE, FOR ALLOWANCE AND PAYMENT OF
INTERIM COMPENSATION AND REIMBURSEMENT OF EXPENSES**

TOTAL FEES REQUESTED:	\$149,937.50	TOTAL COSTS REQUESTED:	\$19,684.52
TOTAL FEES REDUCED:	\$4,805.50	TOTAL COSTS REDUCED:	\$2,201.61
TOTAL FEES ALLOWED:	\$145,132.00	TOTAL COSTS ALLOWED:	\$17,482.91

TOTAL FEES AND COSTS ALLOWED: \$162,614.91

The attached time and expense entries have been underlined to reflect disallowance in whole or in part. The basis for each disallowance is reflected by numerical notations that appear on the left of each underlined entry. The numerical notations correspond to the enumerated paragraphs below.

(4) Insufficient Description

The Court denies the allowance of compensation for the following task since the description of the time entry fails to identify in a reasonable manner the service rendered. *In re Pettibone*, 74 B.R. 293, 301 (Bankr. N.D. Ill. 1987) ("A proper fee application must list each activity, its date, the attorney who performed the work, a description of the nature and substance of the work performed, and the time spent on the work. [Citation omitted] Records which give no explanation of the activities performed are not compensable."); *In re Wildman*, 72 B.R. 700, 708-9 (Bankr. N.D. Ill. 1987) (same).

(11) Overhead Costs are Non-Compensable

The Court denies reimbursement for fees or expenses that are overhead costs. Expenses which are overhead are not compensable because they are built into the hourly rate. See *In re Wildman*, 72 B.R. 700, 731 (Bankr. N.D. Ill. 1987). Overhead, for bankruptcy purposes, includes "all continuous administrative or general costs or expenses incident to the operation of the firm which cannot be attributed to a particular client or cost." *In re Convent Guardian Corp.*, 103 B.R. 937, 939-40 (Bankr. N.D. Ill. 1989) (quoting *In re Thacker*, 48 B.R. 161, 164 (Bankr. N.D. Ill. 1985)).

Dated: September 11, 2013


Eugene R. Wedoff
United States Bankruptcy Judge

Canopy Financial, Inc.

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1102-001M

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ACCOUNT NO:

STATEMENT NO:

Claims Against Professionals

		Rate	HOURS	
09/04/2012	MHR			
	Prepare fee application.	365.00	7.00	2,555.00
09/05/2012				
	APM			
	Review and respond to emails (.20).	485.00	0.20	97.00
	GS			
	Wilson - Telephone conference with MHR re fee application (.1); review draft fee application (.1).	675.00	0.20	135.00
	EGR			
	Prepare fee application for filing and service.	245.00	2.80	686.00
	MF			
	Assist with fee petition	245.00	3.80	931.00
	MHR			
	Prepare fee application.	365.00	7.50	2,737.50
09/06/2012				
	GS			
	KPMG - Communicate with KPMG's counsel re [REDACTED]	675.00	0.10	67.50
	MHR			
	Respond to KPMG inquiry [REDACTED]	365.00	0.20	73.00
09/07/2012				
	APM			
	Review and respond to emails [REDACTED] mediation (.20).	485.00	0.20	97.00
09/10/2012				
	MHR			
	Respond to inquiries from mediator (.2); legal research re [REDACTED] (4.5).	365.00	4.70	1,715.50
09/11/2012				
	MHR			
	Prepare for hearing on motion to approve settlement (.5); prepare proposed order (.5); research re [REDACTED] (1); prepare for mediation (1); review documents relating to [REDACTED] (2.5).	365.00	5.50	2,007.50
09/12/2012				
	MF			
	Configure document database for review of documents produced by Rule 2004 subpoena respondents.	245.00	2.50	612.50
	MHR			
	Prepare for hearing on motion to approve settlement (.4); attend hearing on motion to approve settlement (.6); review documents relating to [REDACTED] (3); research re [REDACTED] (4).	365.00	4.40	1,606.00
09/13/2012				
	MHR			
	Telephone conference with opposing counsel re mediation procedure (.3); e-mail with GS re mediation scheduling and procedure (.4).	365.00	0.70	255.50
09/14/2012				
	MHR			
	Legal research in connection with mediation statement (5.5); draft mediation statement (2.0).	365.00	7.50	2,737.50
09/17/2012				
	MHR			
	Research re [REDACTED] (3); draft mediation statement (5.5).	365.00	8.50	3,102.50
09/18/2012				
	BSS			
	Office conference with MHR re mediation.	950.00	0.20	190.00

1,812.50

Canopy Financial, Inc.

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Claims Against Professionals

		Rate	HOURS	
APM	Prepare for and attend hearing on Motion to Approve Fee Application (.9); confer with MHR re same (.40); prepare for and attend Mediation (4.60).	485.00	5.90	2,861.50
09/27/2012				
MHR	Legal research [REDACTED] email [REDACTED] (4)	365.00	2.80	1,022.00
GS	Review communications with opposing counsel re settlement (.2).	675.00	0.20	135.00
09/28/2012				
MHR	Finalize tolling agreement (.5); email with opposing counsel re tolling agreement (.1); legal research [REDACTED] (1.2). (4)	365.00	1.80	657.00
GS	Communication with mediator (.2); review correspondence from opposing counsel re mediation (.1); work on [REDACTED] (7).	675.00	1.00	675.00
09/29/2012				
GS	Communication with mediator.	675.00	0.20	135.00
10/01/2012				
APM	Review and respond to emails re status of matter (.30).	485.00	0.30	145.50
MHR	Review discovery materials (5.5); prepare for meeting with trustee re [REDACTED] (.5).	365.00	6.00	2,190.00
10/02/2012				
MF	Retrieve key documents from database (.2); prepare materials for meeting with client (.3).	245.00	0.50	122.50
APM	Prepare for and meet with Trustee re [REDACTED] (1.80).	485.00	1.80	873.00
MHR	Review discovery documents (4.5); meeting with Trustee re [REDACTED] (1.0).	365.00	4.50	1,642.50
10/03/2012				
MHR	Review documents [REDACTED].	365.00	3.50	1,277.50
10/04/2012				
MHR	Review documents [REDACTED].	365.00	2.20	803.00
10/05/2012				
MF	Retrieve key documents from database (1.0); Prepare trial exhibits (.6).	245.00	1.60	392.00
MHR	Review documents [REDACTED].	365.00	3.40	1,241.00
10/08/2012				
MF	Retrieve key documents from database (1.6); prepare trial exhibits (.7); prepare documents for production to WSGR (.7).	245.00	3.00	735.00
MHR	Communicate with Trustee's counsel re [REDACTED].			

- 912.50

- 438.00

1350.50

Canopy Financial, Inc.

ACCOUNT NO:
STATEMENT NO:

Claims Against Professionals

		Rate	HOURS		
	MHR	Draft letter to counsel for WSGR re outstanding discovery requests (.5); legal research [REDACTED] (1.2).	365.00	1.70	620.50
11/02/2012	APM	Review and revise letter to counsel for WSGR re outstanding discovery requests (.50); review and revise additional Rule 2004 subpoena to WSGR (.40); confer with MHR re WSGR discovery issues (.60).	485.00	1.50	727.50
	MHR	Legal research [REDACTED] (2.0); legal research re [REDACTED] (3.5).	365.00	5.50	2,007.50
					1,277.50
11/05/2012	MF	Prepare trial exhibits (.5).	245.00	0.50	122.50
	GS	Work on plan for additional Rule 2004 discovery.	675.00	0.50	337.50
	MHR	Legal research re [REDACTED]	365.00	5.50	2,007.50
11/06/2012	APM	Review research re [REDACTED]	485.00	0.50	242.50
11/07/2012	MF	Retrieve key documents from database.	245.00	0.50	122.50
	APM	Review and respond to emails re [REDACTED] (.30).	485.00	0.30	145.50
	MHR	Legal research re [REDACTED] (.5); prepare [REDACTED] (.5).	365.00	1.50	547.50
11/08/2012	GS	Prepare for meeting with Trustee re [REDACTED]	675.00	0.50	337.50
	MHR	Prepare Rule 2004 subpoena to WSGR (1.0); review documents re [REDACTED] (3.2); prepare to meet with Trustee re [REDACTED] (1.2).	365.00	6.40	2,701.00
11/09/2012	MF	Retrieve key documents from database (1.5); Prepare trial exhibits (1.0); prepare materials for meeting with Trustee re [REDACTED] (3.0).	245.00	5.50	1,347.50
	MHR	Legal research re [REDACTED] (1.0); review documents re [REDACTED] (1.5); prepare to meet with Trustee [REDACTED] (1.80).	365.00	4.30	1,569.50
11/12/2012	BSS	Conference with GS re case status and strategy.	950.00	0.50	475.00
	MF	Prepare materials for meeting with Trustee [REDACTED] (2.5).	245.00	2.50	612.50
	GS	Conference with BSS re case status and strategy (.5); meeting with Trustee re [REDACTED] (1).	675.00	1.50	1,012.50
	APM	Prepare for and attend meeting re [REDACTED] (1.30); review key documents re [REDACTED]			

- 1,277.50

Canopy Financial, Inc.

ACCOUNT NO:
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		Rate	HOURS	
	conference with BSS re case status and strategy (.30); review timeline of key events (.20).	675.00	1.50	1,012.50
MHR	Meet with Trustee [REDACTED] (1.0); prepare for meeting with Trustee [REDACTED] [REDACTED] (1.5); e-mail with [REDACTED] re Rule 2004 discovery (.1); meet with APM re review of key documents (.3).	365.00	2.90	1,058.50
01/11/2013				
APM	Review key documents re [REDACTED] and update summary chart (1.50); confer with MHR re same (.20); confer with M. Fleming re Rule 2004 subpoena issues (.30).	485.00	2.00	970.00
MF	Prepare analysis of key documents re [REDACTED] [REDACTED] (.5).	245.00	0.50	122.50
MHR	Communicate with WSGR's counsel re Rule 2004 subpoena response (.2).	365.00	0.20	73.00
01/12/2013				
APM	Review key [REDACTED] re [REDACTED] [REDACTED] and revise summary of key documents (2.30).	485.00	2.30	1,115.50
01/16/2013				
MF	Prepare analysis of key documents re [REDACTED] [REDACTED] (2.5); review Rule 2004 motions and orders (3.5).	245.00	6.00	1,470.00
GS	Review response and objections to Rule 2004 subpoena.	675.00	0.20	135.00
01/17/2013				
MF	Analysis of key documents re Canopy financial statements (1.5); Search for Rule 2004 motions and orders (1.5).	245.00	3.00	735.00
MHR	Review objections to 2004 subpoena (.4); communication with Trustee re same (.1) <u>legal research re potential claims and defenses (1.0).</u> (4)	365.00	1.50	547.50 - 365.00
01/18/2013				
MF	Prepare motion for leave to issue Rule 2004 subpoenas.	245.00	3.50	857.50
GS	Review draft motion for leave to issue Rule 2004 subpoenas (.50).	675.00	0.50	337.50
APM	Review draft motion for leave to issue Rule 2004 subpoenas(.40).	485.00	0.40	194.00
01/20/2013				
MHR	Legal research in connection with [REDACTED]	365.00	0.30	109.50
01/21/2013				
MHR	Draft letter to counsel for WSGR re objections to Rule 2004 subpoena (2.0); review 2004 subpoenas (.2).	365.00	2.20	803.00
01/22/2013				
MF	Prepare motion for leave to issue Rule 2004 subpoenas.	245.00	2.00	490.00
GS	Review letter to counsel for WSGR re mediation.	675.00	0.10	67.50 - 365.00

Canopy Financial, Inc.

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Claims Against Professionals

	Rate	HOURS	
correspondence from opposing counsel regarding mediation (.1)			
work on [REDACTED] (.2)	675.00	0.50	337.50
MHR Meeting with GS regarding mediation (.1); telephone conference with mediator regarding schedule (.1).	395.00	0.20	79.00
FOR CURRENT SERVICES RENDERED		752.10	299,875.00
COURTESY DISCOUNT			-149,937.50
Net Fees after Discount			149,937.50

RECAPITULATION

TIMEKEEPER	Hours	Hourly Rate	TOTAL
Bruce S. Sperling	5.90	\$950.00	\$5,605.00
Greg Shinall	74.60	675.00	50,355.00
Matthew Fleming	131.40	245.00	32,193.00
Adam P. Merrill	119.00	485.00	57,715.00
Elsa G. Reyna	9.60	245.00	2,352.00
Matthew H. Rice	411.60	368.45	151,655.00

Out of town meal and travel expense	247.34
Photocopy-charged at .10 per copy	535.10
Court reporter/depositions/transcript fees	1,612.05
Auto rental	540.49
Airline Travel	2,863.40
Hotel/Lodging	2,158.34
Express mail/FedEx, UPS	303.11
Postage	53.87
Westlaw overhead	2,201.61
Ground transportation/parking, cabfare	408.80
JAMS Mediation fee	793.55
JAMS-Mediation fee	5,450.00
Legal Visual Services-25 graphic creations	3,022.50
JAMS Mediation fee	87.50
Pueo Keffer/witness fee	45.00
Tom Dyal/witness fee	45.00
Redpoint Ventures/witness fee	45.00
Service of subpoena	90.00
Offsite document reproduction-IKON/RICOH	856.86
TOTAL EXPENSES THRU 05/31/2013	21,359.52

TOTAL CURRENT WORK 171,297.02

09/26/2012	Expense Reduced by Order of the Court	-254.20
10/02/2012	PAYMENT -Gus A. Paloian, Trustee-Canopy Financial Inc.	-32,071.94
10/02/2012	PAYMENT -Gus Paloian Trustee, Canopy Financial Inc	-168,780.12
06/17/2013	EXPENSE CREDIT -CREDIT MEMO FROM JAMS Mediation fee	-1,675.00
		-202,781.26

Balance Due

\$169,622.02

2,201.61